

## Assembly Bill No. 877

### CHAPTER 517

An act to amend Sections 11737 and 11753.1 of the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1997. Filed  
with Secretary of State September 29, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 877, Miller. Workers' compensation: insurance classification.

(1) Existing law authorizes the Insurance Commissioner to disapprove a rate if a workers' compensation or employers' liability insurer fails to comply with certain filing requirements. A party affected by an action of such an insurer or a rating organization in a request to review the manner in which a rating system has been applied in connection with insurance afforded or offered may appeal to the commissioner within 30 days after written notice of the action and after a hearing held upon not less than 10 days' written notice to the applicant and to the insurer or rating organization. The commissioner may affirm, modify, or reverse the action.

This bill would provide that the hearing be held within 60 days from the date on which the party requests the appeal or longer upon agreement of the parties. It would provide that if the commissioner has information on the subject, as specified, the appeal may be denied without a hearing.

(2) Existing law requires the commissioner to designate a rating organization to assist him or her, among other things, in developing a classification system for workers' compensation insurance. Existing law provides that any person aggrieved by any decision, action, or omission to act of an insurer or a rating organization may request reconsideration, as specified.

This bill would require the commissioner, on or before January 1, 1999, to adopt regulations to implement and consolidate an appeals process, as specified.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11737 of the Insurance Code is amended to read:

11737. (a) The commissioner may disapprove a rate if the insurer fails to comply with the filing requirements under Section 11735.

(b) If the commissioner believes that rates may violate any of the requirements of this article, he or she shall call a hearing prior to any

disapproval. The commissioner shall disapprove a rate if he or she finds that the rate would, if continued in use, tend to impair or threaten the solvency of an insurer or tend to create a monopoly in the market pursuant to Section 11732.

(c) Every insurer or rating organization shall provide within this state reasonable means whereby any person aggrieved by the application of its filings may be heard on written request to review the manner in which the rating system has been applied in connection with the insurance afforded or offered. If the insurer or rating organization fails to grant or reject the request within 30 days, the applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of the insurer or rating organization on the request may, within 30 days after written notice of the action, appeal to the commissioner who, after a hearing held within 60 days from the date on which the party requests the appeal, or longer upon agreement of the parties and not less than 10 days' written notice to the appellant and to the insurer or rating organization, may affirm, modify, or reverse that action. If the commissioner has information on the subject from which the appeal is taken and believes that a reasonable basis for the appeal does not exist or that the appeal is not made in good faith, the commissioner may deny the appeal without a hearing. The denial shall be in writing and shall set forth the basis for the denial and shall be served on all parties.

(d) If the commissioner disapproves a rate, the commissioner shall issue an order specifying in what respects it fails to meet the requirements of this article and stating when within a reasonable period thereafter that rate shall be discontinued for any policy issued or renewed after a date specified in the order. The order shall be issued within 30 days after the close of the hearing or within such reasonable time extension as the commissioner may fix. The order may include a provision for premium adjustment for the period after the effective date of the order for policies in effect on that date.

(e) Whenever an insurer has no legally effective rates as a result of the commissioner's disapproval of rates or other act, the commissioner shall on request of the insurer specify interim rates for the insurer that are adequate to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by him or her. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds of less than ten dollars (\$10) per policyholder shall not be required.

SEC. 2. Section 11753.1 of the Insurance Code is amended to read:

11753.1. (a) Any person aggrieved by any decision, action, or omission to act of a rating organization may request that the rating organization reconsider the decision, action, or omission. If the

request for reconsideration is rejected or is not acted upon within 30 days by the rating organization, the person requesting reconsideration may, within a reasonable time, appeal from the decision, action, or omission of the rating organization. The appeal shall be made to the commissioner by filing a written complaint and request for a hearing specifying the grounds relied upon. If the commissioner has information on the subject appealed from and believes that probable cause for the appeal does not exist or that the appeal is not made in good faith, the commissioner may deny the appeal without a hearing. The commissioner shall otherwise hold a hearing to consider and determine the matter presented by the appeal.

(b) Any insurer adopting a change in the classification assignment of an employer that results in an increased premium shall notify the employer in writing, or where the insurance was transacted through an insurance agent or broker, the insurer shall notify the agent or broker who shall notify the employer in writing of the change and the reasons for the change. Any employer receiving this notice shall have the right to request reconsideration and appeal the reclassification pursuant to this section. The notice required by this section shall inform the employer of his or her rights pursuant to this section. No notification shall be required when the change is a result of a regulation adopted by the Department of Insurance or other action by or under the authority of the commissioner.

An insurer shall provide written notification of the revised classification assignment to an employer within 30 days after adoption.

(c) On or before January 1, 1999, the commissioner shall adopt regulations to implement the appeals processes set forth in this section and subdivision (c) of Section 11737 and consolidate these processes into the appropriate section of the administrative regulations governing the powers and duties of the commissioner.

